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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/507,235

09/09/2004

Fumiya Nemoto

OGOSH22USA

1791

270 7590 08/18/2008  
HOWSON AND HOWSON  
SUITE 210  
501 OFFICE CENTER DRIVE  
FT WASHINGTON, PA 19034

EXAMINER

BAND, MICHAEL A

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/507,235	<b>Applicant(s)</b> NEMOTO ET AL.	
	<b>Examiner</b> MICHAEL BAND	<b>Art Unit</b> 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 11-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 11-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 17, and 28-30 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Shea (US Patent No. 5,638,979).

With respect to claim 1, Shea discloses a shipping or transport container system comprising an inner liner [1] into an inner container [5] for inserting into an outer container [6] (abstract). The inner liner (i.e. sputtering target retention frame) [1] defines a rectangular void as depicted in figs. 1-2, with sputter targets being well known to have a rectangular shape. Shea also discloses that the inner and outer containers are comprised of plastic, wood, or similar construction (col. 2, lines 28-31). Fig. 2 depicts the inner container [5] having an upper plate (i.e. top) and lower plate (i.e. bottom), with the outer container [6] also having a bottom plate and a cover [9] with said inner container [5] inserted into said outer container [6]. Furthermore fig. 3 depicts a primary feature of Shea having an insulating cover [31] for encasing said inner [5] and outer [6] containers and wheels to provide movement (col. 3, lines 64-67; col. 4, lines 1-8). Since Shea also discusses fig. 3 being comparable to a catering cart [33], the wheels move

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via man-power (col. 3, lines 64-66). Although Shea does not specifically state the container being used for a sputter target, it is either inherent or obvious that since a sputter target is formed to rigid specification and purity standards of expensive materials, a transport container would be needed to protect said sputter target.

With respect to claim 17, Shea further discloses forming the inner and outer containers of corrugated cardboard constructions (i.e. wood products) or wood (col. 2, lines 28-31). Therefore the periphery, corners, and supports of said outer container (i.e. box) [6] are formed of wood.

With respect to claim 28, Shea further discloses in fig. 2 a space tray (i.e. cushion) [3] between the inner container [5] and outer container [6].

With respect to claim 29, Shea further discloses in fig. 2 a flap-type cover [9] for removably fixing a cover onto the outer container [6].

With respect to claim 30, Shea further discloses the inner liner (i.e. sputtering target retention frame) [1] defining a void as depicted in fig. 2 to which an object (i.e. sputter target) is placed.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 11-13, 18, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shea (US Patent No. 5,638,979).

With respect to claim 11, Shea further discloses in fig. 3 a transport container having wheels on one side, allowing for inclined transportation. However Shea is limited in that, while not specifically disclosed, a handle or other conveying means is suggested to be on the same side as the wheels (col. 3, lines 64-66).

However it has been held that a rearrangement of parts is unpatentable because shifting the position of the handle would not have modified the operation of the device. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). Therefore it would have been obvious to one of ordinary skill in the art to place a handle for conveying the transport container on either the side with wheels or without wheels as both lead to an inclined transport container during transport, regardless of whether said transport container is being pushed or pulled.

With respect to claim 12, Shea further discloses forming the inner and outer containers of corrugated cardboard constructions (i.e. wood products) or wood (col. 2, lines 28-31). Therefore the periphery, corners, and supports of said outer container (i.e. box) [6] are formed of wood.

With respect to claims 13, 18, and 22, Shea further discloses a thin layer of aluminum sheet material being attached to the inner liner [1] and separated from a transported item inner by a single- or double-bubble material (col. 3, lines 38-47). However Shea is limited in that it is not suggested to place this aluminum sheet material on the outside of the outer container [6].

However it has been held that a rearrangement of parts is unpatentable because shifting the position of the handle would not have modified the operation of the device. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). Therefore it would have been obvious to one of ordinary skill in the art to place the aluminum sheet material on the outside of outer container [6] since in both scenerios a transported item is separated by a non-conductive polymer bubble material [27].

5. Claims 14-16, 19-21, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shea (US Patent No. 5,638,979) as applied to claims 13, 18, and 22 above, and further in view of Iwamoto et al (JP No. 11011478).

With respect to claims 14, 19, and 23, the reference is cited as discussed for claim 13. However Shea is limited in that a through-type is not suggested on the inner container [5].

Iwamoto et al teaches a double box container having an inner box [50] and an outer box so as to surround said inner box [50] (abstract). Fig. 3 also provides a through-type hold [68] on inner box [50].

It would have been obvious to one of ordinary skill in the art to provide a through-type hold as taught in Iwamoto et al for the inner container of Shea to gain the advantage of an alternative and easier method of transporting the inner container.

With respect to claims 15, 20, and 24, modified Shea further discloses in fig. 2 a space tray (i.e. cushion) [3] between the inner container [5] and outer container [6].

With respect to claims 16, 21, and 25, modified Shea further discloses in fig. 2 a flap-type cover [9] for removably fixing a cover onto the outer container [6].

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6. Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shea (US Patent No. 5,638,979) as applied to claim 1 above, and further in view of Iwamoto et al (JP No. 11011478).

With respect to claim 26, the reference is cited as discussed for claim 1. However Shea is limited in that a through-type is not suggested on the inner container [5].

Iwamoto et al teaches a double box container having an inner box [50] and an outer box so as to surround said inner box [50] (abstract). Fig. 3 also provides a through-type hold [68] on inner box [50].

It would have been obvious to one of ordinary skill in the art to provide a through-type hold as taught in Iwamoto et al for the inner container of Shea to gain the advantage of an alternative and easier method of transporting the inner container.

With respect to claim 27, modified Shea further discloses in fig. 2 a space tray (i.e. cushion) [3] between the inner container [5] and outer container [6].

### ***Response to Arguments***

#### **Priority Date**

7. The Examiner acknowledges that the International Bureau received the certified copy of the priority document on 2/21/2003. The Examiner appreciates the Applicant's notification and has noted the priority document on accompanying Office Action summary.

#### **102/103 Rejections**

8. Applicant's arguments filed 5/30/2008 have been fully considered but they are not persuasive.

9. On p. 7-8 and 13-15, the Applicant argues that the 102(b) rejection must teach every element recited in claim 1, with the current rejection failing to do so. The Applicant also argues that Shea teaches five separate and stand-alone embodiments used to transport perishables such as fruits and edible products instead of a sputter target. The Applicant also argues that the claimed limitation of a frame is rigid and its void matches the target's shape, which Shea does not teach. The Applicant also argues that four of the five embodiments of Shea fail to disclose using wheels to transport.

The Examiner agrees that a 102(b) must teach every claim limitation. For this reason, the Examiner has rejected claim 1 over a 102(b)/103(a) rejection, citing that the Applicant's invention is either inherent or obvious over Shea. With respect to the embodiments, figs. 1-2 and 4 all depicts alternatives to a first embodiment (col. 2, lines 61-67; col. 4, lines 32-33), and therefore, are related. Fig. 3 is used to show Shea teaches a transportation device via wheels, which is either inherent or obvious to combine with the figs. 1-2 and 4 to aid in transportation, such as taking the transport box of figs. 1-2 and 4 and inserting it into the opening of the cart in fig. 3. With regards to the frame being rigid, the claims contain no limitation stating that the frame must be rigid. With regards to the frame having a void the size of a sputter target, Shea depicts in figs. 1-2 a rectangular box capable of containing a rectangular sputter target, with a sputtering target having a rectangular shape being well known in the art. The size of the void of Shea is user defined, with said void being as large or as small as needed to hold



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a certain volume of perishable items. The same is true for various sizes of sputter targets, since smaller targets are used for wafers whereas larger targets are used for plasma display panels. As Applicant has pointed out, Shea teaches a transportation box for perishable (i.e. fragile) items, such as fruit, instead of the claimed sputter target transport box. However a transport box being used for a sputter target relates to intended use, since one of ordinary skill would realize that fruit and a brittle sputter target (Applicant's Specification; p. 1) both are susceptible to being dented, bruised, and scratched and thus must be protected to avoid these detriments.

10. All other arguments are directed to Shea with respect to claim 1 and have been addressed accordingly.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Band whose telephone number is (571) 272-9815. The examiner can normally be reached on Mon-Fri, 8am-4pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexa Neckel can be reached on (571) 272-1446. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. B./

Examiner, Art Unit 1795

/Alexa D. Neckel/

Supervisory Patent Examiner, Art Unit 1795